

R E M A R K S

Reconsideration of this application is respectfully requested.

THE PRIOR ART REJECTION

Claims 2-4, 9-12, and 18-26 were again rejected under 35 USC 103 as being obvious over USP 4,496,971 ("West et al") in view of USP 5,761,336 ("Xu et al"). These rejections, however, are again respectfully traversed.

The present invention relates to a defect inspection apparatus and a defect inspection method which automatically detect a defect of a semiconductor. In particular, independent claim 18 recites a defect inspection apparatus comprising a focusing unit (24) for changing a relative distance between a stage (4) and an objective lens (11) in a direction of an optical axis of the objective lens, and a focusing control unit (23) for performing automatic focusing by driving the focusing unit to focus on the observation object. Independent claim 9, moreover, recites a defect inspection method corresponding to the defect inspection apparatus recited in independent claim 18. See, for example, Fig. 1 and the disclosure in the specification at page 6, line 13 to page 7, line 9.

The Examiner acknowledges on page 11 of the Office Action that West et al does not disclose a focusing control unit for

performing automatic focusing by driving a focusing unit to focus on the observation object, as recited in independent claim 18. The Examiner has therefore relied on Xu et al to supply the missing teachings of West et al.

On pages 2 and 11-12 of the Office Action, the Examiner asserts that Xu et al teaches a focusing control unit for performing automatic focusing in the manner of independent claim 18. As support, the Examiner relies the disclosure of the stepper motor of Xu et al.

It is respectfully pointed out, however, that Xu et al merely discloses a stepper motor 115 that changes an aperture stop (AS), and it is respectfully pointed out that the stepper motor 115 of Xu et al is not used for a focusing operation. See, for example, column 4, lines 30-53 of Xu et al. Accordingly, it is respectfully submitted that Xu et al does not, in fact, disclose or suggest a focusing control unit for performing automatic focusing by driving the focusing unit to focus on the observation object, as recited in claim 18.

Indeed, Xu et al merely discloses a method for adjusting an aperture stop (AS) in order to detect a defect and abnormality by means of a microscope. Specifically, in Xu et al, the stepper motor (115) changes the diameter of an aperture body (142) to improve resolution in bright field viewing. See, for example, column 4, lines 30-53 of Xu et al.

It is respectfully submitted, therefore, that even if the teachings of West et al and Xu et al were combinable in the manner suggested by the Examiner, the combination still would not achieve or render obvious the structure recited in independent claim 18 whereby a focusing control unit performs automatic focusing by driving the focusing unit to focus on the observation object.

Independent method claim 9, moreover, recites performing the focusing control with the focusing unit so that automatic focusing is achieved on the part to be inspected according to the second focusing control parameter. And it is respectfully submitted that even if the teachings of West et al and Xu et al were combinable in the manner suggested by the Examiner, the combination still would not achieve or render obvious the method recited in independent claim 9.

Accordingly, it is respectfully submitted that independent claims 9 and 18 and claims 2-4, 10-12, and 19-26 respectively depending therefrom clearly patentably distinguish over West et al and Xu et al, taken singly or in combination, under 35 USC 103.

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In view of the foregoing, allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

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